

SUBCHAPTER A : GENERAL PROVISIONS

§305.1. Scope and Applicability.

(a) The provisions of this chapter set the standards and requirements for applications, permits, and actions by the commission to carry out the responsibilities for management of waste disposal activities under the Texas Water Code, Chapters 26, 27, and 28, and the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7.

(b) The national pollutant discharge elimination system (NPDES) program, as delegated to the State of Texas, requires permits for the discharge of pollutants from any point source to waters in the state. Such permits are designated as Texas pollutant discharge elimination system. The terms "NPDES," "pollutant," "point source," and "waters in the state" are defined in Texas Water Code, §26.001.

(1) The following are point sources requiring TPDES permits for discharges:

(A) concentrated animal feeding operations as defined in Chapter 321, Subchapter B of this title (relating to Commercial Livestock and Poultry Production Operations);

(B) concentrated aquatic animal production facilities as defined in 40 Code of Federal Regulations (CFR) §122.24;

(C) discharges into aquaculture projects as set forth in 40 CFR §122.25;

(D) stormwater discharges as set forth in 40 CFR §122.26; and

(E) silvicultural point sources as defined in 40 CFR §122.27.

(2) The Texas pollutant discharge elimination system (TPDES) permit program also applies to owners or operators of any treatment works treating domestic sewage, unless all requirements implementing the Clean Water Act (CWA), §405(d), applicable to the treatment works treating domestic sewage are included in a permit issued under the appropriate provisions of Subtitle C, the Federal Solid Waste Disposal Act, the Safe Drinking Water Act, Part C, the Marine Protection, Research, and Sanctuaries Act of 1972, or the Clean Air Act, or under state permit programs approved by the regional administrator as adequate to assure compliance with the CWA, §405.

(3) The executive director may designate any person subject to the standards for sewage sludge use and disposal as a "treatment works treating domestic sewage" as defined in §305.2 of this title (relating to Definitions), where the executive director finds that a permit is necessary to protect public health and the environment from the adverse effects of sewage sludge or to ensure compliance with the technical standards for sludge use and disposal developed under CWA, §405(d). Any person designated as a treatment works treating domestic sewage shall submit an application for a permit within 120 days of being notified by the executive director that a permit is required. The

executive director's decision to designate a person as a treatment works treating domestic sewage shall be stated in the fact sheet or statement of basis for the permit.

§305.2. Definitions.

The definitions contained in the Texas Water Code §§26.001, 27.002, and 28.001, and the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §2, shall apply to this chapter. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Application - A formal written request for commission action relative to a permit, either on commission forms or other approved writing, together with all materials and documents submitted to complete the application.

Bypass - The intentional diversion of a waste stream from any portion of a treatment facility.

Class I sludge management facility - Any publicly owned treatment works (POTW) identified under 40 Code of Federal Regulations, §403.10(a) as being required to have an approved pretreatment program and any other treatment works treating domestic sewage classified as a Class I sludge management facility by the regional administrator in conjunction with the executive director because of the potential for its sludge use or disposal practices to adversely affect public health and the environment.

Component - Any constituent part of a unit or any group of constituent parts of a unit which are assembled to perform a specific function (e.g. a pump seal, pump, kiln liner, kiln thermocouple).

Continuous discharge - A discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

Corrective action management unit or CAMU - An area within a facility that is designated by the commission under 40 Code of Federal Regulations Part 264, Subpart S, for the purpose of implementing corrective action requirements under §335.167 of this title (relating to Corrective Action for Solid Waste Management Units) and the Texas Solid Waste Disposal Act, Texas Health & Safety Code Annotated (Vernon Pamphlet 1993), §361.303 (relating to Corrective Action). A CAMU shall only be used for the management of remediation wastes pursuant to implementing such corrective action requirements at the facility.

CWA - Clean Water Act (formerly referred to as the Federal Water Pollution and Control Act or Federal Water Pollution Control Act Amendments of 1972) Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, 33 United States Code 1251 et seq.

Daily average concentration - The arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.

(A) For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.

(B) For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.

Daily average flow - The arithmetic average of all determinations of the daily discharge within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily discharge, the determination shall be the average of all instantaneous measurements taken during a 24-hour period or during the period of daily discharge if less than 24 hours. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.

Direct discharge - The discharge of a pollutant.

Discharge Monitoring Report (DMR) - The Environmental Protection Agency (EPA) uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees.

Disposal - The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid, liquid, or hazardous waste into or on any land, or into or adjacent to any water in the state so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into or adjacent to any waters, including groundwaters.

Disposal facility - A facility or part of a facility at which solid waste is intentionally placed into or on any land or water, and at which waste will remain after closure. The term disposal facility does not include a corrective action management unit into which remediation wastes are placed.

Effluent limitation - Any restriction imposed on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters in the state.

Environmental Protection Agency (EPA)- The United States Environmental Protection Agency.

Facility - Includes:

(A) all contiguous land and fixtures, structures, or appurtenances used for storing, processing, treating, or disposing of waste, or for injection activities. A facility may consist of several storage, processing, treatment, disposal, or injection operational units;

(B) for the purpose of implementing corrective action under §335.167 of this title (relating to Corrective Action for Solid Waste Management Units), all contiguous property under the control of the owner or operator seeking a permit for the storage, processing, and/or disposal of hazardous waste. This definition also applies to facilities implementing corrective action under the Texas Solid Waste Disposal Act, Texas Health & Safety Code Annotated (Vernon Pamphlet 1993), §361.303 (relating to Corrective Action).

Facility mailing list - The mailing list for a facility seeking a Class I injection well UIC permit. The facility mailing list, which is described in 40 CFR, §120.10(c)(viii), is maintained by the Texas Natural Resource Conservation Commission in accordance with §305.103(b).

Functionally equivalent component - A component which performs the same function or measurement and which meets or exceeds the performance specifications of another component.

Indirect discharger - A nondomestic discharger introducing pollutants to a publicly owned treatment works.

Injection well permit - A permit issued pursuant to the Texas Water Code, Chapter 27.

Land disposal facility - includes landfills, waste piles, surface impoundments, land farms and injection wells.

National Pollutant Discharge Elimination System (NODES) - The national program for issuing, amending, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under CWA, §§307, 402, 318, and 405. The term includes an approved program.

New discharger -

(A) Any building, structure, facility, or installation:

- (i) from which there is or may be a discharge of pollutants;
- (ii) that did not commence the discharge of pollutants at a particular site prior to August 13, 1979;
- (iii) which is not a new source; and
- (iv) which has never received a finally effective NODES permit for discharges at that site.

(B) This definition includes an indirect discharger which commences discharging into water of the United States after August 13, 1979. It also includes any existing mobile

point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a site for which it does not have a permit.

New source - Any building structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(A) after promulgation of standards of performance under CWA, §306; or

(B) after proposal of standards of performance in accordance with CWA, §306, which are applicable to such source, but only if the standards are promulgated in accordance with §306 within 120 days of their proposal.

Operator - The person responsible for the overall operation of a facility.

Outfall - The point or location where waterborne waste is discharged from a sewer system, treatment facility, or disposal system into or adjacent to water in this state.

Owner - The person who owns a facility or part of a facility.

Permit - A written document issued by the commission which, by its conditions, may authorize the permittee to construct, install, modify or operate, in accordance with stated limitations, a specified facility for waste discharge, for solid waste storage, processing or disposal, or for underground injection, and includes a wastewater discharge permit, a solid waste permit, and an injection well permit.

Person - An individual, corporation, organization, government, governmental subdivision or agency, business trust, estate, partnership, or any other legal entity or association.

Primary industry category - Any industry category listed in 40 Code of Federal Regulations Part 122 Appendix A, adopted by reference by §305.532(d) of this title (relating to Adoption of Appendices by Reference).

Process wastewater - Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Processing - The extraction of materials, transfer or volume reduction, conversion to energy, or other separation and preparation of waste for reuse or disposal, and includes the treatment or neutralization of hazardous waste so as to render such waste nonhazardous, safer for transport, or amenable to recovery, storage or volume reduction. The meaning of "transfer" as used here, does not include the conveyance or transport off-site of solid waste by truck, ship, pipeline or other means.

Publicly owned treatment works (POTW) - Any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by the state or a municipality. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

Radioactive material - A material which is identified as a radioactive material under Texas Civil Statutes, Article 4590f, as amended, and the rules adopted by the Texas Board of Health pursuant thereto.

Recommencing discharger - A source which recommences discharge after terminating operations.

Regional administrator - Except when used in conjunction with the words "State Director," or when referring to EPA approval of a state program, where there is a reference in the EPA regulations adopted by reference in this chapter to the "regional administrator" or to the "director," the reference is more properly made, for purposes of state law, to the executive director of the Texas Natural Resource Conservation Commission, or to the Texas Natural Resource Conservation Commission, consistent with the organization of the agency as set forth in the Texas Water Code, Chapter 5, Subchapter B. When used in conjunction with the words "State Director" in such regulations, regional administrator means the Regional Administrator for the Region VI Office of the EPA or his or her authorized representative. A copy of 40 Code of Federal Regulations Part 122 is available for inspection at the library of the Texas Natural Resource Conservation Commission, located in Room B-20 of the Stephen F. Austin State Office Building, 1700 North Congress, Austin.

Remediation waste - All solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris, which contain listed hazardous wastes or which themselves exhibit a hazardous waste characteristic, that are managed for the purpose of implementing corrective action requirements under §335.167 of this title (relating to Corrective Action for Solid Waste Management Units) and the Texas Solid Waste Disposal Act, Texas Health & Safety Code Annotated (Vernon Pamphlet 1993), §361.303 (relating to Corrective Action). For a given facility, remediation wastes may originate only from within the facility boundary, but may include waste managed in implementing corrective action for releases beyond the facility boundary under the Texas Solid Waste Disposal Act, Texas Health & Safety Code Annotated (Vernon Pamphlet 1993), §361.303 (relating to Corrective Action), §335.166(5) of this title (relating to Corrective Action Program), or §335.167(c) of this title (relating to Corrective Action for Solid Waste Management Units).

Schedule of compliance - A schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (e.g., actions, operations, or milestone events) leading to compliance with the CWA and regulations.

Severe property damage - Substantial physical damage to property, damage to treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a discharge.

Sewage sludge - The solids, residues, and precipitate separated from or created in sewage or municipal waste by the unit processes of a treatment works.

Site - The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

Solid waste permit - A permit issued pursuant to Texas Civil Statutes, Article 4477-7, as amended.

Storage - The holding of waste for a temporary period, at the end of which the waste is processed, recycled, disposed of, or stored elsewhere.

Texas Pollutant Discharge Elimination System (TPDES) - The state program for issuing, amending, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under CWA, §§307, 402, 318, and 405, the Texas Water Code, and Texas Administrative Code regulations.

Toxic pollutant - Any pollutant listed as toxic under the CWA, §307(a) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing CWA, §405(d).

Treatment works treating domestic sewage - A POTW or any other sewage sludge or wastewater treatment devices or systems, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of sewage or municipal waste, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices.

Variance - Any mechanism or provision under the CWA, §301 or §316, or under Chapter 308 of this title (relating to Criteria and Standards for the Texas Pollutant Discharge Elimination System) which allows modification to or waiver of the generally applicable effluent limitation requirements or time deadlines of the CWA or this title.

Wastewater discharge permit - A permit issued pursuant to the Texas Water Code, Chapter 26.

Wetlands - Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas and constitute water in the state.

§305.3. Abbreviations.

The following abbreviations, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

CFR - Code of Federal Regulations.

CWA - Clean Water Act.

DMR - Discharge Monitoring Report.

EPA - United States Environmental Protection Agency.

NODES - National Pollutant Discharge Elimination System.

POTW - Publicly owned treatment works.

TPDES - Texas Pollutant Discharge Elimination System.